

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

DONALD WAYNE JONES,

Plaintiff,

v.

CIVIL ACTION NO. 1:05-0127

JO ANNE B. BARNHART,  
Commissioner of Social Security,

Defendant.

**MEMORANDUM OPINION AND JUDGMENT ORDER**

By Standing Order, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge VanDervort submitted to the court his Findings and Recommendation on February 15, 2006, in which he recommended that the court deny plaintiff's motion for summary judgment, grant defendant's motion for judgment on the pleadings, affirm the final decision of the Commissioner, and dismiss this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), plaintiff was allotted ten days and three mailing days in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. The failure of any party to file such objections within the time allowed constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Neither party filed any objections to the Magistrate Judge's Findings and Recommendations within the thirteen-day

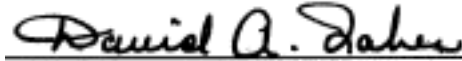
period. Accordingly, the court adopts the Findings and Recommendations of Magistrate Judge VanDervort as follows:

1. Plaintiff's motion for summary judgment is **DENIED;**
2. Defendant's motion for judgment on the pleadings is **GRANTED;**
3. The final decision of the Commissioner is **AFFIRMED;** and
4. This case is **DISMISSED** from the court's docket.

The Clerk is directed to forward a certified copy of this Memorandum Opinion and Judgment Order to counsel of record.

**IT IS SO ORDERED** this 10th of March, 2006.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Chief Judge